

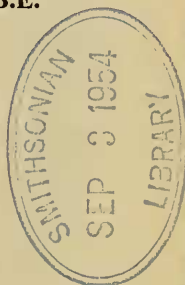
OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

FRANCIS HEMMING, C.M.G., C.B.E.

Secretary to the Commission

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OPINION 259

Rejection of the names used by Mark Catesby in the *Natural History of Carolina*, as republished by Edwards in the edition of 1771, but acceptance of names formed in accordance with the Linnean system inserted by Edwards in that edition

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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

COMPOSITION AT THE TIME OF THE ADOPTION OF THE RULING GIVEN IN OPINION 259

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Secretary : Mr. Francis Hemming, C.M.G., C.B.E. (*London, England.*)

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C. Alternate Members of the Commission at the Session held in Paris in 1948

- Professor Enrique BELTRÁN (*Instituto Mexicano de Recursos Naturales Renovables A.C., Mexico City, Mexico.*)
Dr. Edward HINDLE (*Zoological Society of London, London, England.*)
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REJECTION OF THE NAMES USED BY MARK CATESBY
IN THE "NATURAL HISTORY OF CAROLINA", AS
REPUBLICATED BY EDWARDS IN THE EDITION
OF 1771, BUT ACCEPTANCE OF NAMES
FORMED IN ACCORDANCE WITH THE
LINNEAN SYSTEM INSERTED BY
EDWARDS IN THAT EDITION

RULING :—(1) The decision taken in *Opinion* 89 to use the Plenary Powers, in so far as that might be necessary, to suppress for nomenclatorial purposes the names which appear in the edition of Mark Catesby's pre-1758 work *The Natural History of Carolina* edited by George Edwards and published in 1771 does not apply to the names employed in accordance with the Linnean system in the Concordance of the Linnean nomenclature of the species concerned with the nomenclature used therefor by Catesby in the original edition of the foregoing work, given by Edwards in volume 2 of the edition issued in 1771 under the title *A Catalogue of the Animals and Plants represented in Catesby's "Natural History of Carolina"*. *With the Linnean Names.*

(2) In view of (1) above, the names employed by Edwards in accordance with the Linnean system in the Concordance referred to above but not the names used by Catesby in the original pre-1758 edition of *The Natural History of Carolina* given in the second column of the same Concordance, are available under the *Règles* as from 1771, the year in which the volume containing Edwards' Concordance was published.

(3) The Edwards (1771) edition of Catesby (M.), *The Natural History of Carolina*, exclusive of the portion of the Concordance referred to in (2) above containing the names employed by Edwards in accordance with the Linnean system, is hereby placed on the *Official Index of Rejected and Invalid Works in Zoological Nomenclature* as Work No. 9.

(4) *The Catalogue of the Animals and Plants in Catesby's "Natural History of Carolina"* inserted by Edwards

in volume 2 of his (1771) edition of Catesby's work is hereby placed, to the extent indicated in (2) above, on the *Official List of Works Approved as Available in Zoological Nomenclature* as Work No. 6.

I.—THE STATEMENT OF THE CASE

The problem dealt with in the present *Opinion* came to light in the course of an examination, by Mr. Francis Hemming, Secretary to the International Commission, of the Commission's *Opinion* 13 ("The Specific Name of the Sand Crab") (1910, *Smithson. Publ.* 1938 : 22—24) carried out in 1944 in connection with the re-issue of that *Opinion* then in preparation. This examination showed a partial inconsistency between this *Opinion* and the Commission's later *Opinion* 89 (1925, *Smithson. misc. Coll.* 73 (No. 3) : 27—23) which called for clarification. Mr. Hemming's Report on this subject was embodied in Note 3 attached to the re-issue of *Opinion* 13. Up to this point this question had been dealt with on the Commission's Registered File Z.N.(G.) 24 (re-issue of old *Opinions*), but at this stage it was judged desirable to open a separate File for the present case which was thereupon given the Registered Number Z.N.(S.) 269. The Report submitted by Mr. Hemming, which bore the date 29th April 1945, was as follows :—

On the relation of "Opinion" 89 to "Opinion" 13 as respects the edition of Catesby (M.), "Natural History of Carolina", published by Edwards (G.) in 1771

By FRANCIS HEMMING

(Secretary to the International Commission on Zoological Nomenclature)

The status of names originally published in or before 1757 and republished in or after 1758 is discussed in *Opinion* 5, where it is pointed out that, in order "to become eligible under the Code, such names must be reinforced by adoption or acceptance by the author publishing" the reprint or other later work containing the names in question.

2. In considering the status of the name *Cancer arenarius* as used in the edition of Catesby's *Natural History of Carolina*, etc., published

by George Edwards in 1771, the International Commission on Zoological Nomenclature accordingly applied (in *Opinion* 13) the criteria laid down in *Opinion* 5. As the result of this consideration, the Commission reached the conclusion (paragraph 5) that the names in the Edwards edition of Catesby did not comply with the conditions laid down in *Opinion* 5 and in consequence were not available under the Code.

3. It should be noted that the question of the status of names published in 1771 by Edwards in his edition of Catesby's *Natural History of Carolina* was again brought before the International Commission in 1922,* when Commissioner David Starr Jordan included it in a list of zoological works, which he suggested should be suppressed by the Commission under its Plenary Powers, on the ground that the strict application of the rules in their case would clearly result in greater confusion than uniformity. This proposal was adopted by the Commission as regards the Edwards edition of Catesby, except for the Concordance of the names used by Catesby with those applicable to the species concerned according to the Linnean system given by Edwards in volume 2 under the title: "A Catalogue of the Animals and Plants represented in Catesby's *Natural History of Carolina* : With the Linnean Names." This decision was embodied in *Opinion* 89 published on 16th December 1925.†

4. The Concordance of names referred to above is the document from which an extract relating to the Class Crustacea was quoted by Miss Rathbun in her petition to the Commission in regard to the case dealt with in *Opinion* 13.‡

5. So far as concerns the Edwards edition of Catesby, the effect of *Opinion* 89 is:—

- (i) to suppress nomenclatorially all new names included in the Edwards edition, in so far as such names were used by Catesby in the original (pre-1758) edition of his *Natural History of Carolina* ; and
- (ii) to leave unaffected the status of names formed in accordance with the Linnean system and used by Edwards in the Concordance given by him in volume 2 of his edition of Catesby.

6. Reference to the extract from Edwards' Concordance quoted by Miss Rathbun‡ shows that the name formed in accordance with the Linnean system which Edwards applied to the "Sand Crab" was *Cancer vocans* Linnaeus, 1758. In the opposite column, he cited

* The original of Commissioner D. S. Jordan's application is dated 7th July 1922. It is included among the papers relating to *Opinion* 89 in Volume 3 of bound correspondence relating to *Opinions* preserved in the archives of the International Commission.

† See 1925, *Smithson. misc. Coll.* 73 (No. 3) : 27—33.

‡ See paragraph 1 of *Opinion* 13.

the name *Cancer arenarius* but he did this merely to show that this was the name applied to that species by Catesby. Accordingly, the name *Cancer arenarius* of Catesby, as reprinted by Edwards in 1771, is suppressed for nomenclatorial purposes by *Opinion* 89.

7. To sum up : The Commission in *Opinion* 13 declared that new names published by Edwards in 1771 in his edition of Catesby's *Natural History of Carolina* were ineligible for consideration under the Code because those names did not satisfy the requirements of Article 25 as defined by *Opinion* 5 ; later in *Opinion* 89, the Commission went further and under its Plenary Powers suppressed for nomenclatorial purposes the whole of the Edwards edition of Catesby, with the exception of the names formed in accordance with the Linnean system added by Edwards in the Concordance. In view of *Opinion* 13, *Opinion* 89 was unnecessary so far as concerns the Edwards edition of Catesby, and, if the petition on which the last-named *Opinion* was based had been solely concerned with the Edwards edition, the Commission would no doubt have thought it sufficient, in *Opinion* 89, to refer the petitioner to *Opinion* 13. In fact, however, the Edwards edition of Catesby was only one of a number of works which the Commission was then asked to suppress under its Plenary Powers and it accordingly took the line that the simplest course was to accept the proposal submitted to it in regard to this work, since in effect it did no more than reaffirm the decision which it had already taken in *Opinion* 13.

2. In Note 8 attached to the foregoing re-issue of *Opinion* 13 Mr. Hemming summarised his conclusions in paragraphs 2 and 6(1), and in paragraph 9(2) he submitted the following recommendation as to the action to be taken to rectify the inconsistency between *Opinions* 13 and 89, namely (a) that *Opinion* 13 should be cancelled and (b) that, so far as concerns the availability of names used by Edwards in his edition of Catesby's *Natural History of Carolina* published in 1771, that *Opinion* should be replaced by an *Opinion* in the following terms :—

.....

2. The preliminary decision referred to in paragraph 1(1) above is important, since it provides an authoritative guide to the nomenclatorial status of names first published in 1771 in Edwards' edition of Catesby's *Natural History of Carolina*, but this decision is irrelevant to the problem of the name of the Sand Crab, since, even if the names first published by Edwards in Catesby, 1771, were available nomenclatorially, the name *Cancer arenarius* Edwards, 1771 (the only one of those names which is involved in the problem of the name of the Sand Crab) would nevertheless be unavailable for the Sand Crab, for (as

shown in NOTE 6 above) the name *Cancer arenarius* Edwards, 1771, would have been a homonym of the name *Cancer arenarius* Toreen, 1765, previously given to an entirely different species.¹

6. In the light of the evidence summarised above, the position as regards the conclusions embodied in *Opinion* 13 is seen to be as follows :—

- (1) The first sentence in the "summary" ("Catesby's (1743) pre-Linnean name *Cancer arenarius* is not available under the Code, although 'reprinted' in 1771;") contains an important ruling by the International Commission on the nomenclatorial status of the edition of Catesby, 1743, *Natural History of Carolina*, published by Edwards in 1771. This decision has no bearing, however, upon the question of the correct scientific name of the Sand Crab, since even if the Edwards edition of Catesby was a nomenclatorially available work, the name *Cancer arenarius* Edwards, 1771, would not be available as the name of the Sand Crab, since it would be a homonym of the older name *Cancer arenarius* Toreen, 1765 (see paragraph 2).

9. The action now proposed is, therefore, that the International Commission should :—

- (2) render an *Opinion* confirming as follows the question of principle dealt with in the first sentence of *Opinion* 13 ;

"The names published by Mark Catesby in 1743 in his *Natural History of Carolina* possess no status under the Law of Priority as from that date, since it is prior to 1758, the starting point of zoological nomenclature and the Law of Priority (Article 25 of the *Règles Internationales*) ; nor do those names acquire any rights under the Law of Priority as from 1771, the date on which they were republished by George Edwards in his edition of Catesby's *Natural History of Carolina*, since Catesby's names were not then 're-inforced by adoption or acceptance' by Edwards and in consequence do not qualify for availability under the provisions of *Opinion* 5."

II.—THE SUBSEQUENT HISTORY OF THE CASE

3. The re-issue of *Opinion* 13 and the accompanying notes were sent to printer in May 1945, but, owing to difficulties arising

¹ See *Opinion* 13 (re-issue), Note 6 (1947, *Ops. Decls. int. Comm. zool. Nomencl.* 1 : 218—219).

from paper rationing, shortage of labour at the printing works and similar causes, publication did not actually take place until 28th February 1947, (*Ops. Decls. int. Comm. zool. Nomencl.* 1 : 207—234). Mr. Hemming's Note 3 quoted in paragraph 1 of the present *Opinion* appeared on pp. 213—215 of the re-issue of *Opinion* 13 ; the conclusions quoted in paragraph 2 above appeared on pp. 228 and 229 respectively ; the recommendation quoted in the same paragraph appeared on p. 231.

4. The publication of the present application in the re-issue of *Opinion* 13 elicited no objection to the action proposed, and it was accordingly placed on the Agenda for the meeting of the International Commission arranged to be held in Paris in July 1948.

III.—THE DECISION OF THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

5. The present application was considered by the International Commission on Zoological Nomenclature at the Fourteenth Meeting of its Paris Session held at the Sorbonne in the Amphithéâtre Louis-Liard on Monday, 26th July 1948 at 2030 hours. The following is an extract from the Official Record of the Proceedings of the Commission, giving a summary of the introductory statement made by the Acting President (Mr. Francis Hemming) and of the ensuing discussion (1950, *Bull. zool. Nomencl.* 4 : 570) :—

THE ACTING PRESIDENT (MR. FRANCIS HEMMING) said that, since the time when, as Secretary to the Commission, he had prepared for the consideration of the Commission the " Editorial Notes " now under examination, he had come to the conclusion that, in view of the decision taken by the Commission in *Opinion* 89 to use its Plenary Powers to suppress for nomenclatorial purposes names used by Catesby in his pre-1758 *Natural History of Carolina*, as republished by Edwards in 1771, the position, as it had existed before that decision, had become a matter

of academic interest only, and therefore that there was no need now for the Commission to render an *Opinion* restating the decision on this subject given implicitly in *Opinion* 13. It was desirable, however, in his view, that the Commission should render an *Opinion* clarifying the decision in regard to Edwards (1771) edition of Catesby's book given in *Opinion* 89, for it was misleading in the highest degree that there should be no express mention in that decision of the material limitation imposed thereon by the reservation attached to Commissioner Stejneger's vote². It was essential that by one means or another such a clarification should be made before the decision in that *Opinion* was recorded in the Schedule which was now to be added to the *Règles* recording decisions taken by the Commission under its Plenary Powers.

IN DISCUSSION, it was generally agreed that it was necessary that the decision in *Opinion* 89 should be clarified in the manner proposed.

6. The following is an extract from the Official Record of the Proceedings of the International Commission, setting out the decision reached by it in this case (Paris Session, 14th Meeting, Conclusion 51) (1950, *Bull. zool. Nomencl.* 4 : 568—571) :—

THE COMMISSION agreed :—

to render an *Opinion* supplementary to *Opinion* 89, making it clear :—

(a) that the decision taken in *Opinion* 89 to use the Plenary Powers, in so far as that might be necessary, to suppress for nomenclatorial purposes the names

² At the time of the adoption of *Opinion* 89 involving, as it did, the use by the Commission of its Plenary Powers, absolute unanimity among the Members of the Commissioners voting was required in order to secure adoption. Dr. Stejneger qualified his vote by attaching a reservation in favour of any names in the "Concordance" at the end of volume 2, used by Edwards in accordance with the Linnean system, and this involved a similar reservation in the decision of the Commission as a whole.

which appeared in the edition of Mark Catesby's pre-1758 work *The Natural History of Carolina*, edited by George Edwards and published in 1771, did not apply to the names employed in accordance with the Linnean system in the Concordance of the Linnean nomenclature of the species concerned with the nomenclature used therefor by Catesby in the original edition of the foregoing work, given by Edwards in Volume 2 of the edition issued in 1771 under the title "A Catalogue of the Animals and Plants represented in Catesby's *Natural History of Carolina* : With the Linnean Names".

- (b) that, in view of (a) above, the names employed by Edwards in accordance with the Linnean system in the Concordance referred to above, but not the names used by Catesby in the original pre-1758 edition of *The Natural History of Carolina* given in a second column in the same Concordance, were available under the *Règles* as from 1771, the year in which the volume containing Edwards' Concordance was published.

7. The decision taken in the present case was reported to, and approved by, the Section on Nomenclature of the Thirteenth International Congress of Zoology, Paris, 1948, at its Sixth Meeting held on Monday, 26th July 1948 (1950, *Bull. zool. Nomencl.* 5 : 120).

8. The Ruling given in the present *Opinion* was concurred in by the sixteen (16) Commissioners and Alternate Commissioners present at the Paris Session of the International Commission, namely :—

Beltrán *vice* Cabrera ; Boschma ; Bradley ; di Caporiacco ; Hemming ; Hindle *vice* Jordan ; Jorge *vice* do Amaral ; Kirby *vice* Stoll ; Lemche *vice* Dymond ; Mansour *vice* Hankó ; Metcalf *vice* Peters ; Riley *vice* Calman ; Rode ; Spärck *vice* Mortensen ; van Straelen *vice* Richter ; Usinger *vice* Vokes.

9. The Ruling given in the present *Opinion* was dissented from by no Commissioner or Alternate Commissioner present at the Paris Session.

10. At its meeting held at Copenhagen in August 1953, the Fourteenth International Congress of Zoology decided to insert a provision in the *Règles* establishing an "Official Index" to be styled the *Official Index of Rejected and Invalid Works in Zoological Nomenclature* and directing the insertion therein of the title of any work which the International Commission might either reject under its Plenary Powers or declare to be invalid for the purposes of zoological nomenclature (1953, *Copenhagen Decisions zool. Nomencl.* : 23—24). The Congress decided also to insert in the *Règles* a provision establishing an "Official List" to be styled the *Official List of Works Approved as Available in Zoological Nomenclature* and directing the insertion therein of the title of any work which the International Commission might either validate under its Plenary Powers or declare to be an available work, together with any supplementary decisions which the International Commission might take in regard to any aspect of that work (1953, *Copenhagen Decisions zool. Nomencl.* : 24). Since the foregoing decisions apply to past, as well as to future, decisions by the International Commission in cases of this kind, the opportunity presented by the preparation of the present *Opinion* has been taken to record the insertion (a) in the foregoing *Official Index* of the title of the Edwards (1771) edition of the work by Catesby (M.) entitled *The Natural History of Carolina* originally published before the starting point of zoological nomenclature (1758), subject to the qualification specified in Section (1) of the Ruling given in the present *Opinion*, and (b) in the foregoing *Official List* of the title of the Concordance by Edwards entitled *A Catalogue of the Animals and Plants in Catesby's "Natural History of Carolina"* published in volume 2 of the edition of Catesby's book edited by Edwards and published in 1771, subject to the qualification specified in Section (2) of the Ruling given in the present *Opinion*.

11. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is

accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

12. The present *Opinion* shall be known as *Opinion* Two Hundred and Fifty-Nine (259) of the International Commission on Zoological Nomenclature.

DONE in London, this Twenty-First day of December, Nineteen Hundred and Fifty-Three.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING